

Date of Hearing: April 4, 2017

ASSEMBLY COMMITTEE ON AGING AND LONG-TERM CARE

Ash Kalra, Chair

AB 550 (Reyes) – As Introduced February 14, 2017

**SUBJECT:** State Long-Term Care Ombudsman Program: funding.

**SUMMARY:** This bill increases the base allocation for local ombudsman programs from \$35,000 to \$100,000 per fiscal year by appropriating \$2,250,000 from the General Fund to the California Department of Aging for that purpose.

**EXISTING LAW:**

- 1) As part of the Mello-Granlund Older Californians Act, establishes the Office of the State Long-Term Care Ombudsman, under the direction of the State Long-Term Care Ombudsman, in the California Department of Aging.
- 2) Provides for the Long-Term Care Ombudsman Program, under which funds are allocated to local ombudsman programs to assist elderly persons in long-term health care facilities and residential care facilities by, among other things, investigating and seeking to resolve complaints against these facilities.
- 3) Requires the department to allocate federal and state funds for local ombudsman programs according to a specified distribution, but prohibits the department from allocating less than \$35,000 per fiscal year, except in areas with fewer than 10 facilities and fewer than 500 beds.

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

**Author's Statement:** "The current funding allocation for the LTC Ombudsman organization was established in 1989, and the existing formula has not been updated for inflation in 27 years. It does not reflect the growing cost of conducting business in California. In order to serve the current need and to increase services for the growing population of seniors in long-term care, it is critical that a realistic base funding allocation be put in place."

**Background:** Authority for the Office of the State Long-Term Care Ombudsman (OSLTCO) comes from the Federal Older Americans Act and Older Californians Act. The OSLTCO develops policy and provides oversight to 35 local Long-Term Care Ombudsman programs. In California, Long Term Care (LTC) Ombudsman organizations monitor and assist residents in both skilled nursing facilities (nursing homes) and residential care facilities for the elderly (assisted living facilities). The role of the Ombudsman is to advocate for the residents, promote residents' rights and provide assurances that facilities comply with state and federal laws.

The LTC Ombudsman Program serves as the first line of defense for residents of care facilities and provides on-site monitoring of facility conditions and resident well-being. Ombudsmen are trained to spot systemic problems and to develop personal rapport with residents who may be afraid to report problems or abuse. Ombudsmen are able to intervene on behalf of a resident and identify, investigate and resolve complaints before they result in more serious and costly cases of

abuse and neglect. This is particularly important to the 60% of residents without family members visiting to observe care and report problems.

The LTC Ombudsman Program investigates every complaint it receives. Elder and dependent adult abuse and neglect cases (approximately 12% of the cases) continue to be the highest priority investigations. Less serious complaints take days or weeks for the Ombudsman to contact the complainant and investigate. Some investigations of complaints are experiencing significant delays. Many small issues grow into bigger more costly complaints due to the lack of quick intervention. There is no data regarding the length of these delays.

In 2016, the statewide funding allocation for the 35 local ombudsman programs was \$8.3M. According to The Ombudsman, that money was used to:

- Maintain 41 offices;
- Provide 24 hour crisis hot-line response;
- Conduct quarterly unannounced monitoring visits to 1,251 skilled nursing facilities, and 7,535 residential care facilities;
- Investigate 40,589 complains;
- Informational consultations to 53,203 individuals and another 11,497 informational consultations to facility staff;
- Conduct 661 community education events; and,
- Conduct 70 volunteer training certifications.

While the program has received some resources from special fund accounts and a \$1 million allocation in General Funds in 2015, this only allowed the funding base for an office to be maintained at \$35,000. Although it allowed the programs to keep their doors open it resulted in a cost to the ability of the ombudsmen program to be proactive. In 2007 the program had 183 full time equivalent employees with 170 actual full time employees and only a handful of part time employees. In 2016 the program had 133 full time employees but only 70 of them were actual full time employees. With this reduction in staff and increase calls to investigate complaints the programs placed more staff out in the field for complaint investigations. This has resulted in fewer human beings to answer phone calls, limited office hours and less instant access of supervisors for the volunteer when they are out in the field.

Furthermore, with the reduction in staff, local programs are conducting fewer trainings classes to certify new volunteers. As natural attrition occurs, the program is experiencing a reduction in Ombudsman volunteers, who perform the same advocacy function as paid staff. In 2004 the program had 1,300 certified volunteers. In 2016 the program dropped to below 750 volunteers. This impacts the programs' ability to respond to complaints from residents and their family members and delays response time to investigate complaints, and also reduces the number of quarterly unannounced visits.

In 2007-2008, prior to the loss of \$3.8million in general funds local LTC Ombudsman Programs investigated 54,032 complaints. In 2016 local programs investigated 41,788 complaint investigations, 1,200 more investigations than 2015, but still 12,244 fewer complaints than in 2007-2008 were monitored at the suggested standard.

The California Long-Term Care Ombudsman Association (CLTCOA) has a budget request for \$1million from the State Health Facility Citation Account. This does not reflect an increase to the program budget but instead a third year of one-time only funding to keep the programs at the funding level of 2015.

The LTC Ombudsman Programs do receive \$2.8 million in federal funds which are included in the \$8.3 million 2016 statewide funding allocation for the 35 local ombudsman programs. These funds are considered discretionary in nature and as such are vulnerable to reduction or elimination. The program was subjected to a reduction in federal support from the federal sequestration, which has yet to be fully restored.

**Arguments in Support:** Writing in support of this bill, The Congress of California Seniors states “An adequately funded ombudsman program is a vital part of the long-term care safety net. When ombudsman programs are able to fulfill their state and federal service mandates, not only do care facility residents benefit from a higher quality of life and care, but the state is also able to reduce costs for new complaints that would otherwise be referred directly to the licensing agencies. This increase to the program base allows for the minimal level of supervisory staff needed to recruit, support and retain ombudsman volunteers who in turn protect and improve the lives of California residents in long-term care facilities.”

**Arguments in Opposition:** None.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Long-Term Care Ombudsman Association (CLTCOA) – Sponsor  
 Area 1 Agency on Aging  
 Area 12 Agency on Aging  
 California Advocates for Nursing Home Reform (CANHR)  
 California Association of Area Agencies on Aging  
 Choice in Aging  
 Congress of California Seniors (CCS)  
 Consumer Federation of California (CFC)  
 County Welfare Directors Association of California  
 Disability Rights California  
 Fresno-Madera Long Term Care Ombudsman Program  
 Johnson Moore Trial Lawyers  
 Institute on Aging  
 Long-Term Care Ombudsman Program of Lake & Mendocino Counties  
 Long-Term Care Ombudsman Services of San Luis Obispo County  
 Marin County Commission on Aging  
 Mother Lode Long-Term Care Ombudsman Program  
 Ombudsman Services of Contra Costa  
 Ombudsman Services of San Mateo County, Inc.  
 Planning and Services Area 2 Area Agency on Aging  
 Santa Cruz and San Benito Counties Long-Term Care Ombudsman Program  
 Senior Advocacy Services  
 Sierra Senior Providers, Inc.  
 Sonoma County Area Agency on Aging

Sonoma County Human Services Department  
WISE & Healthy Aging Long-Term Care Ombudsman Program  
Numerous individuals (100s).

**Opposition**

None on file.

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